



**CITY OF SEATTLE  
ANALYSIS AND DECISION OF THE DIRECTOR OF  
THE SEATTLE DEPARTMENT OF CONSTRUCTION AND INSPECTIONS**

**Applicant Name:** City of Seattle Department of Construction and Inspections

**Address of Proposal:** All parcels in Seattle within Shoreline District.

**Lead Agency:** City of Seattle Department of Construction and Inspections

**SUMMARY OF PROPOSED ACTION**

This is a non-project action that is proposing legislative action for a limited amendment to the Shoreline Master Program. The proposed legislation would:

1. Amend Section 23.60A.942 of the Seattle Municipal Code (SMC) to clarify the term “used for navigation” in the definition of vessel;
2. Replace “vessel” with “house barge” in Section 23.60A.204; and
3. Replace “vessel” with “structure” in Section 23.60A.916.

It is expected that the City Council will act on the proposed non-project legislation in Summer 2018.

The following approvals are required:

SEPA – Environmental Determination (Chapter 25.05, SMC)

Legislative Decision – City Council Action

Washington State Department of Ecology Approval

**SEPA DETERMINATION:** ☐ Exempt ☒ DNS ☐ EIS  
☐ DNS with conditions

## **BACKGROUND DATA**

### **Proposal Description**

In 2016 the City's Hearing Examiner ruled that a vessel with a broken engine was no longer a "vessel" because it could not be used for navigation. This decision allows for the transformation of vessels that are water-dependent and serve a purpose in the maritime community, into "structures" that are a non-water-dependent use and yet remain in the water, displacing maritime uses.

If it is determined that every vessel that existed as of July 1, 2014 is not a vessel because it has not been "used for navigation" either because of a broken engine or potentially other reasons, then these vessels can be verified as floating on-water residences. This changes the use of these vessels from a water-dependent maritime use, which is a preferred use, to a non-water dependent use, which is not a preferred use under the Shoreline Management Act (SMA). This allowed change of use is inconsistent with the goals and policies of the SMA and the City's SMP.

Our proposed amendments to the vessel definition would address the consequence of the 2016 Hearing Examiner's decision that interprets the term "used for navigation", in the definition of "vessel", literally. The amendment clarifies that if a vessel has been designed for navigation, was used for navigation in the past, and is capable of being used for navigation in the future, that such a vessel still meets the definition of vessel.

The proposed amendment to the definition of vessel is as follows:

*"Vessel" means ships, boats, barges, or any other floating craft that are designed and used for navigation; ~~((and))~~ do not interfere with the normal public use of the water; ~~((;))~~ and are capable of self-propulsion. Vessels also include: ~~((including))~~*

*1) ~~((#))~~ Historic ships that do not have means of self-propulsion and steering equipment, and*

*2) Ships, boats, barges, or any floating crafts with temporary or repairable conditions affecting the navigation and use of the vessel.*

*Temporary or repairable conditions affecting navigation include, but are not limited to, broken engines, lack of an engine due to removal, hull damage, and/or missing sails. Temporary or repairable conditions affecting the use of the vessel include, but are not limited to, actions or inactions of the vessel owner ~~((house barges))~~.*

### **Public Comment and Public Hearing**

SDCI and the Department of Ecology (Ecology) are required to gain public input on draft amendments to local Shoreline Master Programs. SDCI will work with Ecology through the joint review process per WAC [173-26-104](#). The minimum formal public comment period on this proposed amendment is thirty days. SDCI will provide a notice on the proposed amendment and the opportunity for written comments, from all interested parties, on its [Shoreline Master Program](#) website. Ecology will provide notice to the state interested parties list of persons, groups, agencies, and tribes that have requested in writing notice of proposed master programs or amendments generally or for a specific subject matter.

Additionally, at least one joint SDCI/Ecology hearing will be conducted to consider the draft proposal. SDCI will publish notice of this joint SDCI/Ecology hearing in The Daily Journal of Commerce and in SDCI's Land Use Information Bulletin.

## **Department of Ecology Review and Approval Process**

After SDCI has concluded the public comment period SDCI will review and respond to the public comments received and make any changes to the proposal prior to formally submitting the proposed amendment to Ecology. Ecology will provide the initial determination within thirty days to forty-five days. SDCI will continue to work with Ecology on any needed changes until the Ecology determines in a written statement that the proposed amendment is consistent with applicable laws and rules. After receiving this determination from Ecology, SDCI will work with City Council to adopt the amendment through an ordinance and will submit the amendment to Ecology for their final approval outlined in WAC [173-26-110](#).

## **ANALYSIS – SEPA**

This proposal is an adoption of legislation and is defined as a non-project action. The disclosure of the potential impacts from this proposal was made in an environmental checklist submitted by Seattle Department of Construction and Inspections planning staff, dated June 5, 2018. The information on the checklist, a copy of the proposed code changes, the Director’s Report (dated May 2018), and the experience of the lead agency with review of similar legislative actions form the basis for this analysis and decision.

This is a non-substantive change to the Land Use Code, that provides clarity to the definition of “vessel” to ensure that the City’s SMP is consistent with requirements in state law. These proposed changes to the SMP will not result in negative environmental impacts. See discussion below.

## **ELEMENTS OF THE ENVIRONMENT**

### ***Natural Environment***

#### **Earth, Air, Water, Plants and Animals, Energy, Natural Resources, Environmentally Sensitive Areas, Noise, Releases of Toxic or Hazardous Materials**

The proposed changes to the SMP will not directly impact, nor will it result in significant indirect or cumulative adverse impacts related to earth, air, water, plants/animals, fisheries, energy, natural resources, sensitive areas, noise, or releases of toxic/hazardous substances.

### ***Built Environment***

#### **Land & Shoreline Use, Height/Bulk/Scale, Transportation, Public Services and Utilities**

The proposed changes do not affect land use or height/bulk/scale, transportation, public services and utilities. The proposed changes clarify the definition of “vessel”, which maintains a vessel as a maritime shoreline use; therefore, this amendment is required to maintain consistency with the SMA and SMP Goals and Policies in the City’s Comprehensive Plan. See the Director’s Report (May 2018).

No significant adverse impacts to the built environment are anticipated as a result of the proposed changes to the City's SMP.

#### Conclusion

The proposed update of the Shoreline Master Program will result in no significant adverse impacts to the environment and do not change environmental protection within the Shoreline District. As such, there is no mitigation necessary or warranted by the application of the City's adopted SEPA policies.

#### **DECISION - SEPA**

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirements of the State Environmental Policy Act (RCW 43.21C), including the requirement to inform the public agency decisions pursuant to SEPA.

- (X) Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.0302c.
- ( ) Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.0302c.

#### **RECOMMENDED CONDITIONS - SEPA**

None

Signature: (signature on file) \_\_\_\_\_ Date: July 16, 2018 \_\_\_\_\_  
William K. Mills, Land Use Planner Supervisor  
Department of Construction & Inspections